

C A D W A L A D E R

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May 11, 2017

VIA E-MAIL

Honorable John Gleeson
Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022

Re: United States v. Jawad Amir Musa

Dear Judge Gleeson:

I understand that you and your firm are representing Jawad A. Musa f/k/a Leroy Moses in an effort to reduce Mr. Musa's sentence. As you may know, I was the primary prosecutor assigned to Mr. Musa's case in 1991 and handled the matter from the investigation through sentencing. In 2016, after a careful review of Mr. Musa's life since he was incarcerated and upon reflection of the times, I wrote a letter of support (attached hereto) to the Pardon Attorney in strong support of Mr. Musa's petition clemency. I was disappointed that Mr. Musa's petition for executive clemency was denied by President Obama in January of 2017.

I wanted to write and reemphasize my support for Mr. Musa and my belief that Mr. Musa "has more than paid his debt to society" and that "[m]ercy and fairness now dictate that he be given the opportunity to rejoin society and enjoy the balance of his life as a freeman." (Letter at 2). I appreciate the work that you and your colleagues are doing to obtain relief for certain offenders who received mandatory minimum sentences as a result of filings under 18 U.S.C. § 924(c) or, as in Mr. Musa's case, 21 U.S.C. § 851. As I stated in my letter to the Pardon Attorney, I believe that the "Section 851 enhancement papers would not be filed under today's guidelines." Further, I believe that if Mr. Musa had pled guilty to the crime he was charged with before the enhancement papers were filed, he would have received a guidelines sentence.

I fully support the work you are undertaking to, through whatever mechanism, obtain a resentencing of Mr. Musa as you did in *United States v. Holloway*, 68 F. Supp. 3d 310 (E.D.N.Y. 2014). I continue to support Mr. Musa's efforts to have his sentence reduced (through executive clemency or your efforts) and continue to believe everything I said in my letter last year to the Pardon Attorney.

C A D W A L A D E R

Honorable John Gleeson
May 11, 2017

I ask that you share this letter as appropriate on behalf of Mr. Musa. Please do not hesitate to contact if I can be of any assistance to your work.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kenneth L. Wainstein". The signature is fluid and cursive, with the first name "Kenneth" being more prominent.

Kenneth L. Wainstein

KLW/ajj

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June 10, 2016

Robert A. Zauzmer, Esq.
Acting Pardon Attorney
United States Department of Justice
145 N Street N.E.
Room 5E.508
Washington, D.C. 20530

Re: Letter of Support for Petition for Executive Clemency, Jawad Musa f/k/a Leroy
Moses

Dear Mr. Zauzmer:

I am writing to support the petition of Jawad Musa, formerly known as Leroy Moses, for executive clemency. In 1991, I was an Assistant United States Attorney in the Southern District of New York,¹ and I was assigned to Mr. Musa's case. I handled the grand jury investigation and pretrial proceedings, took the case through trial, and represented the Government at the sentencing hearing in which Mr. Musa received a mandatory life sentence under 21 U.S.C. Section 851.

Last year, upon learning of the work of the Clemency Project 2014, I asked an attorney in my office to look up Mr. Musa's case and determine whether he was seeking clemency. Knowing that the Section 851 enhancement papers would not be filed under today's guidelines, I wanted to make sure his case was being reviewed. My colleague quickly determined that Mr. Musa had filed a clemency petition and that Professor Steve Zeidman and Mr. Jesse Levine were providing counsel in the clemency process.

Since that time, my colleague and I have spent a significant amount of time reviewing the file materials related to Mr. Musa and speaking with Professor Zeidman and Mr. Levine. Having carefully considered Mr. Musa's petition, it is my belief that it should be granted.

¹ I went on to serve in numerous other capacities during my 19 years in the Justice Department, including: line AUSA, supervisor, Interim U.S. Attorney and confirmed U.S. Attorney in the U.S. Attorney's Office in D.C.; Director of the Executive Office for United States Attorneys; General Counsel and Chief of Staff of the FBI; and Assistant Attorney General for National Security.

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Robert A. Zauzmer, Esq.
June 10, 2016

While it was appropriate that Mr. Musa was convicted and sentenced as part of the government's effort to aggressively combat the scourge of drugs in the 1980's and 1990's, it is only fair that his mandatory life sentence be reconsidered in light of circumstances since that time.

By all accounts, Mr. Musa has led a life free of violence in prison, which is consistent with the lack of violence in his record prior to incarceration. To the extent that he has a record of infractions in prison, it largely relates to the use of drugs. I would submit that those drug infractions should have limited impact on your assessment of his deservingness for clemency given that (1) it is somewhat understandable that a person facing the prospect of life in prison may turn to drugs and (2) he ultimately showed the strength and character to reject drugs and stay drug free for the past four years.

Mr. Musa has also gone to great lengths to enrich and position himself to be a productive member of society, having taken approximately 50 courses while incarcerated, with topics ranging from business management to Spanish to psychology. That consistent level of voluntary educational activity reflects a strong desire for self-improvement, which bodes well for the prospects of a successful transition into society.

Finally, I was comforted to see that Mr. Musa retains a strong family support system in Baltimore, and that his family would be a critical component of a comprehensive re-entry plan, which includes familial support, employment opportunities and community-based integration efforts.

In light of these considerations, I believe that Mr. Musa's petition should be granted. Justice has been done for Mr. Musa's drug crime in 1991, and he has more than paid his debt to society. Mercy and fairness now dictate that he be given the opportunity to rejoin society and enjoy the balance of his life as a free man.

I appreciate the efforts you are putting into the President's clemency project. I also recognize the difficulty of distinguishing between those cases that deserve clemency and those that do not. These are tough decisions that have direct implications for public safety, and there is never any guarantee that a particular petition will result in a successful outcome. Nonetheless, based on my knowledge of Mr. Musa's original prosecution, my assessment of his conduct over the past 25 years, and my experience in law enforcement, I believe that his petition is one that deserves clemency.

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Robert A. Zauzmer, Esq.
June 10, 2016

Thank you for considering my views on this important issue, and please contact me if I can be of any further assistance as you review Mr. Musa's petition.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Kenneth L. Wainstein". The signature is fluid and cursive, with the first name "Kenneth" and last name "Wainstein" clearly distinguishable.

Kenneth L. Wainstein

KLW/ajj